

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

BRANDON B. DREWRY,)
)
Plaintiff)
)
)
v.) 1:16-cv-00075-GZS
)
MAINE DEPT. OF CORRECTIONS,)
et als.)
)
Defendants)

ANSWER

Defendants Harold Abbott, Troy Ross, Thomas Averill and Nathan Staples answer the Complaint as follows:

I. Previous Lawsuits

1. – 7. To the extent plaintiff intends to state that he has not filed previous lawsuits, defendants deny this allegation.

II.

Defendants admit that plaintiff is confined at the Maine State Prison which has a prisoner grievance procedure. Defendants deny that plaintiff filed a grievance regarding the incident alleged in the Complaint.

III.

A. Defendants admit that plaintiff is incarcerated at the Maine State Prison.

B. Defendants note that only Harold Abbott, Troy Ross, Thomas Averill and Nathan Staples remain as defendants in this case.

IV. Response to Statement of Claim

1. Defendants deny plaintiff's version of the events that occurred on December 11, 2014.
2. Defendants admit that plaintiff was charged with the disciplinary infractions of Bodily Injury and Bodily Fluid, among others.
3. Defendants admit that several officers involved in the incident reported that plaintiff spit blood at the officers. Defendants deny the remaining allegations in Paragraph 3 of this Statement of Claim.
4. Defendants admit that plaintiff requested that video be produced at the hearing, although defendants are without knowledge as to whether plaintiff specified which videos he wished to have produced.
5. Defendants admit that disciplinary sanctions of disciplinary segregation, loss of good time, and a monetary sanction were imposed as the result of plaintiff being found guilty of four disciplinary infractions resulting from the incident alleged in the complaint. Defendants deny that the sanctions were in the amount alleged in Paragraph 5 of the Statement of Claim.
6. Defendants admit that defendant Staples was suspended for an unrelated incident. Defendants deny the remaining allegations in Paragraph 6 of the Statement of Claim.
7. Defendants deny the allegations in Paragraph 7 of the Statement of Claim.
8. Defendants deny the allegations in Paragraph 8 of the Statement of Claim.

The remaining statements in the Complaint constitute a prayer for relief, and no response is required.

WHEREFORE, defendants request that judgment be entered for the defendants and that they be awarded costs and attorney fees.

AND FURTHER ANSWERING, defendants state:

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted as to each of the defendants.
2. Plaintiff did not sustain a physical injury as a result of the incidents alleged in the Complaint, and any claim for mental and emotional damages must be dismissed.
3. Plaintiff failed to exhaust available administrative remedies, and his complaint must be dismissed.
4. Plaintiff's claims are barred by the doctrine of qualified immunity.
5. Any injuries sustained by the plaintiff were the result of his own actions, and his recovery is barred.
6. Defendants did not violate any rights of the plaintiff under the federal constitution.

September 28, 2016

/s/ James E. Fortin
James E. Fortin
Assistant Attorney General
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626-8800

Certificate of Service

The undersigned hereby certifies that he electronically filed the above document with the Clerk of Court using the CM/ECF system, which will serve a copy on all counsel of record, and that he mailed a copy, postage paid, to the following:

Brandon Drewry
Maine State Prison
807 Cushing Road
Warren, ME 04864

September 28, 2016

/s/ James E. Fortin
James E. Fortin
Assistant Attorney General